



# IDAHO DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

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## **Negotiated Rulemaking Notice**

### **BOARD OF OPTOMETRY**

**LOCATION: Idaho State Board of Pharmacy Board Conference Room  
1199 W Shoreline Ln #303, Boise, ID 83702**

This is a public meeting. The public is always encouraged to attend via WebEx or telephonically with the information provided below:

#### **MEETING LINK:**

Meeting number: 2456 064 9515  
Password: 3fzHKmKew44

Join by phone: (415)-655-0001 US Toll  
Access code: 2456 064 9515

AGENDA  
6/13/2022

**1:00p.m to 2:00p.m. MST**

**Zero-Based Regulation Public Comment Session**

Pursuant to Executive Order 2020-1 the Board of Optometry is performing a thorough review of the administrative rules 24.10.01 that govern the profession. The Division of Occupational and Professional Licenses invites the public to comment on a draft copy of the rules that illustrates changes that are being considered by this regulatory board.

If you wish to submit written comment, please email your comment to [katie.stuart@dopl.idaho.gov](mailto:katie.stuart@dopl.idaho.gov).

PLEASE NOTE: The Idaho State Board of Optometry requests feedback on any section of this Rules draft and directs each reviewers' attention.

#### 24.10.01 – RULES OF THE STATE BOARD OF OPTOMETRY

**000. LEGAL AUTHORITY.**

These rules are promulgated pursuant to Section 54-1509, Idaho Code. ( )

**001. SCOPE.**

These rules govern the practice of optometry in Idaho. ( )

**002. – 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Low Vision.** Refer to Section 54-1501(5), Idaho Code, correcting defects may include low vision but is not limited to low vision rehabilitation. ( )

**02. Opticianry.** The professional practice of filling prescriptions from a licensed optometrist or ophthalmologist for ophthalmic lenses, contact lenses, and any other ophthalmic device used to improve vision. Opticianry does not include prescriptive authority. ( )

~~**03. Vision Therapy.** Any person who assesses, diagnoses, treats, or prescribes treatment for conditions of the visual system or manages a patient with vision therapy, visual training, visual rehabilitation, orthoptics or eye exercises or who hold him/herself out as being able to do so for the rehabilitation and/or treatment of physical, physiological, sensorimotor, neuromuscular or perceptual anomalies of the eyes or vision system or who prescribes or utilizes lenses, prisms, filters, occlusion or other devices for the enhancement, rehabilitation and/or treatment of the visual system or prevention of visual dysfunctions, except under the supervision and management of a licensed optometrist, is engaged in the practice of optometry. ( )~~

Commented [KS1]: Moved to new practice standards section

**011. – 174. (RESERVED)**

**175. METHOD OF APPLICATION – EXAMINATION OF APPLICANTS.**

Applications for license shall be made on forms approved by the Board. ( )

**01. Application.** The application must be accompanied by the required fee, a complete transcript of credits from any college of optometry attended, a photocopy of any diplomas granted by any college of optometry, and a copy of certified results establishing successful passage of the required examinations. ( )

~~**02. Application Review.** Only fully completed applications accompanied by appropriate documents shall be reviewed for licensure. ( )~~

**03. Exam Content.** The written and the practical portions of the Idaho examination shall be all parts of the National Board of Examiners in Optometry Examination (NBEOE) and the Board approved jurisprudence examination. A passing grade for the NBEOE shall be that established by the test provider. ~~The passing grade for the jurisprudence examination shall be seventy-five percent (75%). A passing score on all examinations shall be necessary to qualify for a license to practice Optometry in Idaho. ( )~~

**176. – 199. (RESERVED)**

**200. APPROVAL OF SCHOOLS OF OPTOMETRY.**

The State Board of Optometry recognizes as reputable and in good standing the schools and colleges of optometry which have met the standards set by the Accreditation Council on Optometric Education, or its successor agency, a list of which may be obtained ~~from the Division of Occupational and Professional Licenses website. from the secretary of the Board or from the office of the Division of Occupational and Professional Licenses in Boise. ( )~~

**201. – 224. (RESERVED)**

**225. — APPROVAL OF PRELIMINARY EDUCATION.**

~~The State Board of Optometry recognizes the preliminary education prerequisites for entry into a school, college or university of optometry approved by the Council on Optometric Education of the American Optometric Association as adequate preliminary education prerequisites for licensing in Idaho.~~ ( )

**Commented [KS2]:** I recommend removing this from the rules. If this is what we accept we do not need a law for it. We can place this information on our website as an FYI

**226. -- 249. (RESERVED)**

**250. — LICENSES CANCELED FOR FAILURE TO RENEW.**

~~A license that has been canceled for failure to renew may be reinstated in accordance with Section 67-2614, Idaho Code. Any person whose license to practice optometry has been canceled for failure to renew for a period of more than five (5) years must apply for a new license in accordance with the requirements of Section 67-2614, Idaho Code.~~ ( )

**Commented [KS3]:** Duplicative of Title 67 Chapter 26

**251. -- 274. (RESERVED)**

**275. ENDORSEMENT.**

~~**01. — Endorsement.** Any person who presents to the Board of Optometry a certified copy of a certificate or license of registration which he holds in good standing in another state or a foreign country, which state or foreign country has similar requirements for licensing or registration as is provided for new applicants in Idaho (including therapeutic privileges), may apply to the Board for the issuance of a license to practice optometry in the state of Idaho.~~ ( )

**012. Conditions to be Granted a License by Endorsement.** The right to be granted a license to practice optometry in Idaho is also subject to the following conditions set out below: ( )

**a.** The submission of a completed application meeting the requirements of Subsection 175.01 including the applicable fee. ( )

**b.** That the license or certificate of registration of the applicant shall not have been suspended or revoked by any state or country or subject to any pending or unresolved licensure action in any state or country. That the applicant must not have committed any act which would constitute a violation of the Optometry Act or Board Rules. ( )

**c.** For those licensed in another state the applicant must document to the Board for approval, the education, training, and examination for diagnostic and therapeutic privileges in the other state and return the state of Idaho law examination. ( )

~~**d.** That the applicant has been engaged in the practice of optometry continuously for three (3) of the last four (4) years.~~ ( )

**276. -- 299. (RESERVED)**

**300. CONTINUING EDUCATION IN OPTOMETRY.**

**01. Hours Required, Advance Approval.** ( )

~~**a.** Each optometrist licensed by the state of Idaho shall attend in each calendar year prior to license renewal, a minimum of twelve (12) full hours of approved optometric continuing education courses or meetings. Licensees are responsible for choosing quality continuing education programs that focus on protecting the health and safety of the public and contribute to their germane profession. All Council on Optometric Practitioners Education (COPE) approved courses are approved for continuing education credit.~~ ( )

~~**b.** Approved optometric continuing education courses or meetings shall be those post graduate~~

~~optometric education courses or meetings approved in advance by the Board of Optometry or post-graduate study sessions or seminars at an accredited school or college of optometry. In addition, all Council on Optometric Practitioners Education (COPE) approved courses are approved for continuing education credit. If an optometrist attends or plans to attend a course of study or seminar which has not been approved in advance, he may petition the Board for approval of that educational course of study, setting forth a description of the course. The Board may, in its discretion, approve the course upon review of the material submitted either in advance or after completion of the course.~~ ( )

**02. Additional Hours Required to Use Therapeutic Pharmaceutical Agents.** ( )

~~a.~~ Each optometrist licensed by the state of Idaho to use therapeutic pharmaceutical agents shall attend in each calendar year prior to license renewal, a minimum of six (6) additional full hours of approved optometric courses or meetings. ( )

~~b.~~ This six (6) hours of continuing education must be in courses involving ocular pharmacology and/or advanced ocular disease and are in addition to the twelve (12) hours of continuing education required under Subsection 300.01. ( )

**03. Correspondence/Home Study Courses/Observation.** The Board allows credit for correspondence courses, individual home study and observation that is germane to the practice of optometry. No more than nine (9) hours of continuing education shall be permitted each year in correspondence courses or other continuing education obtained from "home study" courses or observation. ( )

~~04. Waiver of Requirements.~~ The Board of Optometry shall waive the continuing education requirement for the first license renewal after initial licensure. The Board of Optometry may, upon application, waive the requirements of this rule in cases involving illness, unusual circumstances interfering with the optometrist's ability to practice or inability to conform to the rules due to military duty. ( )

~~05. Renewal Application Form.~~ Each licensed Idaho optometrist will be furnished a license renewal application form by the State Board of Optometry on which each optometrist shall attest on their annual license renewal application that they have satisfied the continuing education requirements. False attestation of satisfaction of the continuing education requirements on a renewal application shall subject the licensee to disciplinary action. ( )

**06. Audit.** The Board may conduct audits to confirm that the continuing education requirements have been met. In the event a licensee fails to provide the Board with acceptable documentation of the hours attested to on the renewal application, the license will not be renewed. ( )

**07. Documentation of Attendance.** It shall be necessary for each licensed Idaho optometrist to provide documentation verifying attendance or completion of continuing education by securing authorized signatures, documentation, or electronic verification from the course instructors, providers, or sponsoring institution substantiating any hours attended by the licensee. This documentation must be maintained by the licensee and provided upon request by the Board or its agent. ( )

~~08. Excess Hours.~~ A licensee may carryover a maximum of six (6) hours of continuing education to meet the next year's continuing education requirement. Excess hours may be used only during the next renewal period and may not be carried forward more than one (1) year. ( )

**301. -- 324. (RESERVED)**

**325. UNPROFESSIONAL CONDUCT.**

~~01. Unprofessional Conduct.~~ In conducting practice, an optometrist must not: ( )

~~a.~~ Practice optometry in any manner other than as a professional person in an individual capacity, or in partnership with or associate with other licensed health care professionals. An optometrist may be a stock holder

**Commented [KS4]:** Strike and add to new sections. Practice standards and Discipline

~~in and practice as a member of a professional service corporation with other licensed health care professionals as authorized by Title 54, Chapter 15, Idaho Code, but the optometrist must list his individual name as well as any name selected for the professional service corporation on any letterheads, telephone directories, office or building directories, or other places where the general public might be advised of the fact that the individual is practicing optometry, as required by these rules. ( )~~

~~b. Use either "Cappers" or "Steerers" or accept a split or divided fee for the purpose of obtaining patients or use solicitors or agents for the purpose of securing patients or conducting eye examinations or furnishing optometric services. ( )~~

~~c. Allow his prescription files and records to be used by any unlicensed person, firm, or corporation not under the direct control of that optometrist for the practice of optometry. ( )~~

~~d. Fail to perform services for which fees have been received. ( )~~

~~e. File false reports of services performed or fees rendered. ( )~~

~~f. Permit the use of his name or professional title by or in conjunction with any person not an optometrist, or any firm, company, corporation or military association which illegally practices or in any manner holds himself or itself out to the public as being entitled to practice the profession of optometry when not licensed to do so under the law of Idaho or which uses the title "Optometric Services" in such a manner in advertising as to convey to the public the impression that the individual or corporation is entitled to practice optometry or furnish optometric advice or services when not so authorized by law. ( )~~

~~326. -- 424. (RESERVED)~~

~~425. GROSS INCOMPETENCE~~

~~Any behavior or practice on the part of the licensed optometrist which demonstrates a lack of competence with respect to discharging professional obligations or duties which might result in injury or damage to a patient whether such injury or damage actually occurs or not and in particular, the Board defines as "gross incompetence" any of the following: ( )~~

~~01. Failure to Meet Prevailing Standards. Failure to meet prevailing standards, or willful rendering of substandard care, either individually or as part of a third party reimbursement agreement or by other agreement. ( )~~

~~02. Failure to Meet Prevailing Standards in the Referral of Any Patient Who Is Suffering From Any Apparent or Suspected Pathological Condition. A failure to meet prevailing standards in the referral of any patient who is suffering from any apparent or suspected pathological condition to a person competent and licensed to properly treat or diagnose the condition. ( )~~

~~03. Employment of Techniques or Methods of Practice. Employment of techniques or methods of practice in treating or prescribing for a patient when he does not have proper training in the technique or methods of practice. ( )~~

~~04. Failure to Advise Patient of Possible Danger When a Lens Not Meeting Impact Resistance Standards of F.D.A. Failure to advise his patient of possible danger when a lens does not meet impact resistance standards of F.D.A. Regulation, 21 CFR 801.410, and is provided to the patient. ( )~~

~~05. Failure to Provide Follow Up Care. Failure to provide follow up care according to prevailing standards. ( )~~

~~06. Displaying Gross Ignorance or Demonstrating Gross Inefficiency. Displaying gross ignorance or demonstrating gross inefficiency in the care of a patient. ( )~~

~~07. Failure to Verify the Specifications of All Lenses. Failure to verify the specifications of all~~

**Commented [KS5]:** Strike and add to new sections. Practice standards and Discipline.

lenses provided by him. ( )

~~08. Failing to Perform Tests and Record Findings. In the course of an examination of a patient, failure to perform tests and record findings in a manner consistent with prevailing standards of optometric care. ( )~~

~~09. Using Pharmaceutical Agents. Using pharmaceutical agents in the practice of optometry without having attended sufficient training programs or schools and acquiring the knowledge necessary to use the drugs in a competent manner. ( )~~

~~10. Illegal Prescription Sale, Administration, Distribution, or Use of Drugs. Prescribing, selling, administering, distributing, giving, or using drugs legally classified. Prescribing, selling, administering, distributing, giving, or using drugs legally classified as a controlled substance or as an addictive or dangerous drug for other than accepted diagnostic or therapeutic purposes. ( )~~

~~11. Disciplinary Action or Sanctions. Disciplinary action or sanctions taken by another state, jurisdiction, peer review body or a professional association or society against an optometrist for acts or conduct similar to acts or conduct which would constitute grounds for action as defined under "Rules of the Idaho Board of Optometry." ( )~~

~~12. Sanitary Office. Failure to maintain sanitary office conditions, equipment, and use appropriate techniques and procedures. ( )~~

~~13. Failure to Release Prescription. Failure to release either a spectacle or contact lens prescription as required by Federal law. ( )~~

~~14. Sufficient Training or Education. Performing procedures without having successfully completed education, instruction or certification. ( )~~

426. -- 449. (RESERVED)

**450. PRESCRIPTIONS FOR SPECTACLES AND CONTACT LENSES.**

Eyeglasses and contact lenses, including plano or cosmetic contact lenses, may only be dispensed upon a current prescription issued by an optometrist or medical physician. Every prescription written or issued by an optometrist practicing in Idaho shall contain at least the following information: ( )

**01. Prescription for Spectacles.** Prescriptions for spectacles must contain the following: Sphere, cylinder, axis, prism power and additional power, if applicable. The standard prescription must be at least one (1) year from date the prescription was originally issued. ( )

~~a. Sphere, cylinder, axis, prism power and additional power, if applicable; and ( )~~

~~b. The standard expiration date of the prescription must be at least one (1) year from date the prescription was originally issued. ( )~~

**02. All Prescriptions for Rigid Contact Lenses.** All prescriptions for rigid contact lenses must contain at least the following information: base curve, lens manufacturer or "brand" name, overall diameter, lens material, power; and the standard expiration date of the prescription must be at least one (1) year from date the prescription was originally issued. A shorter prescription period may be allowed when based upon a documented medical condition. ( )

**03. All Prescriptions for Soft Contact Lenses.** All prescriptions for soft contact lenses must contain at least the following information: lens manufacturer or "brand" name, series or base curve, power, diameter, if applicable, color, if applicable; and the standard expiration date of the prescription is one (1) year from date the prescription was originally issued. A shorter prescription period may be allowed when based upon a documented medical condition. ( )

~~04. — Alteration of Prescriptions. A person may not alter the specifications of an ophthalmic lens prescription without the prescribing doctor's consent. ( )~~

~~05. — Expired Contact Lens Prescription. A person may not fill an expired contact lens prescription. ( )~~

**06. Fitting and Dispensing Contact Lenses. ( )**

a. Contact lenses may be fitted only by an optometrist, or licensed physician. ( )

b. An ophthalmic dispenser may dispense contact lenses on a fully written contact lens prescription issued by an optometrist or licensed physician. ( )

c. Notwithstanding Subsection 450.06.b., an optometrist, or licensed physician who issues a contact lens prescription remains professionally responsible to the patient. ( )

451. -- 474. (RESERVED)

**475. — PATIENTS RECORDS.**

~~01. — Optometrist Shall Keep a Complete Record of All Patients Examined. Every optometrist practicing in the state of Idaho shall keep a complete record of all patients examined by him or for whom he has adapted optical accessories, including copies of prescriptions issued to the patient and copies of statements of charges delivered or provided to the patient. All such records shall be maintained in an orderly and accessible manner and place and shall be maintained for at least five (5) years following the optometrist's last professional contact with the patient. Failure to maintain such records is deemed to be unprofessional conduct and constitutes gross incompetence in the handling of the patient's affairs. ( )~~

~~02. — Prescription Files. The prescription files and all records pertaining to the practice of optometry shall be maintained as the sole property of the optometrist and not be distributed to any unlicensed person except as required by law or when lawfully subpoenaed in a criminal or civil proceeding in court, or subpoenaed for presentation at a deposition or hearing authorized by the Board of Optometry. ( )~~

~~03. — Storage of Patient Records. Storage of patient records must be in compliance with rules in accordance with Health Insurance Portability and Accountability Act (HIPAA) including that patient records must be stored in an area inaccessible to patients. ( )~~

476. -- 499. (RESERVED)

**500. PRECEPTORSHIP PROGRAM.**

An optometrist may use a student of optometry in their his office under his direct supervision for educational purposes. ( )

501. -- 524. (RESERVED)

**525. — GENERAL RULES**

~~01. — Engaging as an Advisor or Staff Optometrist. An optometrist may be engaged as an advisor for or be engaged as a staff optometrist for an administrator for: ( )~~

~~a. — Industrial plants where industrial vision programs are being, or have been instituted. ( )~~

~~b. — Health programs sponsored or funded by any agency or municipal county, state or federal government. ( )~~

**Commented [KS6]:** Strike and add to new sections. Practice standards and Discipline.

**Commented [KS7]:** Board agreed on the striking Rule 525. Board stated that Optometry is an established profession that no longer requires this rule.

- ~~c. Research organizations or educational institutions. ( )~~
- ~~d. Insurance companies. ( )~~
- ~~e. Hospitals. ( )~~
- ~~f. Ophthalmologists. ( )~~
- ~~g. Corporations where the optometrist's full time is engaged by the corporation to care for the visual needs of the employees of such corporation and their families. ( )~~

~~02. Professional Responsibilities. Provided, however, that in acting in the capacity of consultant, advisor, or staff optometrists, the optometrist shall at all times remain cognizant of his professional responsibilities and shall with demeanor, decorum and determination retain his right of independent professional judgment and title in all situations and circumstances and in a manner similar to that which he would exercise if he were engaged in practice in his own office. ( )~~

526. -- 574. (RESERVED)

575. FEES.

| FEE TYPE  | AMOUNT<br>(Not to Exceed)                     |
|---|---|
| License Application                                 | \$100   |
| Annual Fund   | \$75  |
| Annual Renewal                                      | \$75  |
| Certificate to obtain and use pharmaceutical agents | \$10  |
| Reinstatement                                       | As provided in<br>Section 67-2614, Idaho Code |

( )

576. -- 599. (RESERVED)

600. BOARD CERTIFICATION OF OPTOMETRIST AUTHORIZED TO OBTAIN AND USE PHARMACEUTICAL AGENTS.

01. The Right to Obtain and Use Topically Applied Diagnostic Pharmaceutical Agents. The right to obtain and use topically applied diagnostic pharmaceutical agents for use in diagnosis of another in the practice of optometry as defined by Section 54-1501, Idaho Code, is subject to the following conditions set out below: ( )

a. Optometrists who have obtained a certificate from the Board of Optometry authorizing them to obtain and use topically applied diagnostic pharmaceutical agents shall obtain, from pharmacists licensed by the state of Idaho, or from any other source, and use only those agents listed below: ( )

- i. All medications for use in the diagnosis of conditions of the human eye and/or eyelid. ( )
- ii. All over-the-counter agents. ( )
- iii. Such other diagnostic pharmaceutical agents as may be approved by the Board of Optometry.



( )

b. The Board of Optometry shall issue a certificate to obtain and use the diagnostic drugs specifically identified and listed in this rule to any optometrist licensed to practice in Idaho who complies with both the minimum educational requirements in the subject of general and ocular pharmacology and the minimum continuing educational requirements set out below: ( )

i. Each optometrist certified to obtain and use topically applied pharmaceutical agents shall have completed courses totaling fifty-five (55) hours of actual classroom instruction in general and ocular pharmacology and emergency medical care given by an institution approved by the Council on Post Secondary Accreditation of the U.S. Department of Education or an instructor accredited and employed by such institution and which have been approved by the Board of Optometry. ( )

ii. Each optometrist certified to obtain and use topically applied pharmaceutical agents shall also have completed a refresher course in cardiopulmonary resuscitation (CPR), emergency medical care provided by the Emergency Medical Services Bureau, or equivalent program either approved or provided by the Board of Optometry, within a two (2) year period preceding issuance of the certificate by the Board of Optometry. ( )

iii. In order to maintain the certificate issued by the Board, each certified optometrist must complete a refresher course in CPR described in Subsection 600.01.b.ii. above once during each two (2) year period following certification and shall list and describe the course attended and the dates of attendance upon a license renewal application form filed pursuant to Section 300. ( )

c. In order to implement this rule, the Board of Optometry may designate and approve courses of instruction given by those institutions or instructors described in Subsection 600.01.b.i. above which may be necessary to provide practicing optometrists who have received less than fifty-five (55) hours of actual classroom instruction in general and ocular pharmacology in optometry school with the opportunity to meet the requirements of this rule. ( )

**02. The Right to Prescribe, Administer and Dispense Therapeutic Pharmaceutical Agents.** The right to prescribe, administer and dispense therapeutic pharmaceutical agents in the practice of optometry as defined by Section 54-1501, Idaho Code, is subject to the following conditions set out below: ( )

a. Optometrists who have obtained a certificate from the Board of Optometry authorizing them to prescribe, administer and dispense therapeutic pharmaceutical agents shall obtain, from pharmacists licensed by the State of Idaho, or from any other source, and use only those agents listed below: ( )

i. All medications for use in the treatment of the human eye and/or eyelid. ( )

ii. All over-the-counter agents. ( )

iii. Such other therapeutic pharmaceutical agents as may be approved by the Board of Optometry. ( )

b. The Board of Optometry shall issue a certificate to prescribe, administer and dispense the therapeutic medications to any optometrist licensed to practice in Idaho who complies with Subsection 600.01 and both the minimum educational and clinical experience requirements in the subject of ocular pharmacology and therapeutics and the minimum continuing educational requirements set out below: ( )

i. Completion of a minimum of one hundred (100) hours of actual classroom and clinical instruction in ocular pharmacology and therapeutics courses given by an institution or organization approved by the Council on Post-Secondary Accreditation of the U.S. Department of Education, or an Instructor employed by such institution, which have been approved by the Board of Optometry. ( )

ii. Successful passage of the "Treatment and Management of Ocular Diseases" section of the optometrist examination approved by the Association of Regulatory Boards of Optometry, Inc. (ARBO) or its

equivalent as approved by the Board. ( )

601. – 999. (RESERVED)

**-00. PRACTICE STANDARDS**

01. Standards of Professional Conduct. Licensees must comply with the following standards of professional conduct:

a. Practicing optometry in a manner which meets the standard of optometric care provided by other qualified licensees in the same or similar community, taking into account education, training, and experience.

b. Employing only those techniques or methods of practice in treating or prescribing to a patient for which the licensee has the necessary education, training, and experience.

c. Referring a patient suffering from any apparent or suspected pathological condition to a person competent and licensed to properly treat or diagnose the condition.

d. Verifying the specifications of all lenses provided to a patient and advising a patient of possible danger when a lens provided to the patient does not meet impact resistant standards set forth in 21 CFR 801.410.

02. Vision Therapy. Any person who assesses, diagnoses, treats, or prescribes treatment for conditions of the visual system or manages a patient with vision therapy, visual training, visual rehabilitation, orthoptics or eye exercises or who holds him/herself out as being able to do so for the rehabilitation and/or treatment of physical, physiological, sensorimotor, neuromuscular or perceptual anomalies of the eyes or vision system or who prescribes or utilizes lenses, prisms, filters, occlusion or other devices for the enhancement, rehabilitation and/or treatment of the visual system or prevention of visual dysfunctions, except under the supervision and management of a licensed optometrist, is engaged in the practice of optometry.

**Commented [KS8]:** Vision Therapy is currently in the Definition Section.

**-00. DISCIPLINE**

In addition to the grounds for discipline set forth in Idaho Code, every person licensed by the Board is subject to discipline upon any of the following grounds:

01. Gross Incompetence. Engaging in practice or behavior which demonstrates a manifest inability or unreasonable lack of professional skill to practice his or her profession, including performing procedures without having successfully completed the necessary education, training, or certification.

02. Failing to Comply with Standards of Professional Conduct as set forth in these Rules.

03. **Failing to maintain adequate records.** Adequate records means legible records which contain, at a minimum, copies of prescriptions issued to the patient or client and copies of statements of charges delivered or provided to the patient or client.

04. **Illegal Prescription Sale, Administration, Distribution, or Use of Drugs.** Prescribing, selling, administering, distributing, giving, or using drugs legally classified as a controlled substance or as an addictive or dangerous drug for other than accepted diagnostic or therapeutic purposes.

05. **Other Discipline.** Inability to obtain or renew a license or disciplinary action against a license to practice optometry by any other state or jurisdiction unless it can be shown that such action was not related to the competence of the person to practice optometry or to any conduct which constitutes grounds for discipline by the Board.

06. **Confidentiality.** Failing to safeguard the confidentiality of patient records or other medical information pertaining to identifiable patients, except as required or authorized by law.

07. **Prescription and Records.** Failure to release a spectacle or contact lens prescription to a patient or to transfer patient records to another provider when requested to do so by the subject patient or the patient's legally designated representative.

08. **Failure to Cooperate.** Failing to cooperate with the Board during any investigation or disciplinary proceeding, even if such investigation or disciplinary proceeding does not personally concern the particular licensee.

**Commented [KS9]:** HIPAA record retention requirement - 6 years per <https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-C/part-164/subpart-C/section-164.316>